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OCT 20 2004

IN TH

## UNITED STATES PATENT AND TRADEMARK OFFICE

In Re:	Aiping H. Young	Confirmation No:	8794
Serial No:	10/821,649	Group:	1626
Filed:	April 8, 2004	Examiner:	Not Yet Assigned
For:	Biological Response Modifier for the Treatment of Cancer		
Customer No.:	29127		
Attorney Docket No.	0018.0024.cip		

RESPONSE TO NOTICE TO FILE MISSING PARTS OF  
NONPROVISIONAL APPLICATION

VIA FACSIMILE: 703-872-9306

Mail Stop Missing Parts

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to the Notice to File Missing Parts mailed on August 20, 2004 (copy enclosed), Applicant submits the executed Declaration of inventor Aiping H. Young with this response. A copy of the petition under rule 1.53(e) proving that missing page 29 was submitted with the specification as filed on the filing date of April 8, 2004 is also enclosed with this response.

Applicant also encloses a preliminary amendment in which Claims 1, 8-12 are canceled without prejudice. Claims 7, 14, 17, 18, 20, 21, 23, 24, 26, 27, 28 are amended. Claims 31-33 are new. The listing of the Claims as now pending in the application is presented in the attached preliminary amendment.

Application Serial No: 10/821,649

Payment of the fees due is presented in the enclosed Fee Transmittal Sheet. The \$130 petition fee has been paid with the petition under rule 1.53(e) a copy of which is enclosed.

Respectfully submitted,

HOUSTON ELISEEVA LLP

By Maria Eliseeva  
Maria M. Eliseeva  
Registration No.: 43,326  
4 Militia Drive, Ste. 4  
Lexington, MA 02421  
Tel.: 781 863 9991  
Fax: 781 863 9931

Date: October 20, 2004

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UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/821,649	04/08/2004	Aiping H. Young	0018.0024.cip

29127

HOUSTON ELISEEVA  
4 MILITIA DRIVE, SUITE 4  
LEXINGTON, MA 02421

CONFIRMATION NO. 8794

FORMALITIES LETTER



\*OC000000013599263\*

Date Mailed: 08/20/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

### Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 770 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

The following item(s) appear to have been omitted from the application:

- Page(s) 29 of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Additional claim fees of \$1234 as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

#### **SUMMARY OF FEES DUE:**

Total additional fee(s) required for this application is **\$2134** for a Large Entity

- \$770 Statutory basic filing fee.
- \$130 Late oath or declaration Surcharge.
- Total additional claim fee(s) for this application is **\$1234**
  - \$602 for 7 independent claims over 3.
  - \$342 for 19 total claims over 20.
  - \$290 for multiple dependent claim surcharge.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

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***A copy of this notice MUST be returned with the reply.***

2-Magnus  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



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